

ST 02-0232-GIL 10/24/2002 DELIVERY CHARGES

Transportation and delivery charges are not taxable if it can be shown that the charges are separately contracted for and the charges are actually reflective of the costs of shipping. To the extent the transportation and delivery charges exceed the costs of shipping, the charges will be subject to tax. See 86 Ill. Adm. Code 130.415. (This is a GIL).

October 24, 2002

Dear Xxxxx:

This letter is in response to a request from the Illinois Attorney General's Office that we respond to your inquiry to that office regarding sales tax being charged on some mail order purchases you made in July of this year from an Indiana company. We apologize for the delay in responding to your inquiry. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120, subsections (b) and (c), which can be located on the Department's Internet website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

You have provided certain invoices that show charges for:

NET AMOUNT OF ORDER:	XX.XX
TAX AMOUNT ON ORDER:	X.XX
SHIPPING CHARGE:	<u>X.XX</u>
TOTAL:	XX.XX

**DEPARTMENT'S RESPONSE:**

For your information and reference please find enclosed a copy of the Department's regulation on treatment of transportation and delivery charges under the Retailers' Occupation Tax Act, 86 Ill. Adm. Code 130.415. As you can see from the regulation, transportation and delivery charges, also designated as shipping and handling charges, are not taxable if it can be shown that the charges are separately contracted for and the charges are actually reflective of the costs of shipping. To the extent the transportation and delivery charges exceed the costs of shipping, the charges will be subject to tax.

Without more specific information regarding how those shipping and handling charges on your invoices were computed, we cannot provide you with a more specific answer regarding the transactions you have provided invoices for. As noted in subsection (d) of Section 130.415, if the seller and the buyer agree upon the transportation or delivery charges separately from the selling price of the tangible personal property which is sold, then the cost of the transportation or delivery service is not a part of the "selling price" of the tangible personal property personal property which is

sold, but instead is a service charge, separately contracted for, and need not be included in the figure upon which the seller computes his Retailers' Occupation Tax liability.

Delivery charges are deemed to be agreed upon separately from the selling price of the tangible personal property being sold so long as the seller requires a separate charge for delivery and so long as the charges designated as transportation or delivery or shipping and handling are actually reflective of the costs of such shipping, transportation or delivery. To the extent that such charges exceed the costs of shipping, transportation or delivery, the charges are subject to tax. Based on the limited information contained on the copies of the invoices you have provided, we cannot determine if the shipping and handling charges exceeded the costs of shipping of the items from Indiana.

The best evidence that transportation or delivery charges were agreed to separately and apart from the selling price, is a separate and distinct contract for transportation or delivery. However, documentation which demonstrates that the purchaser had the option of taking delivery of the property, at the seller's location, for the agreed purchase price, or having delivery made by the seller for the agreed purchase price, plus an ascertained or ascertainable delivery charge, will suffice.

We are forwarding a copy of this letter and your invoices to the Department's Audit Division for review and investigation.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton  
Associate Counsel

TDC:msk  
Enc.